



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Issued by the Department of Transportation on August 12, 2004

**NOTICE OF ACTION TAKEN -- DOCKETS OST-2004-18856**

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **Continental Micronesia, Inc.** filed **8/5/04** and clarified on **8/10/04** for:

**XX** Exemption for two years under 49 U.S.C. §40109 to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between Honolulu, Hawaii, and Nagoya, Japan, and to integrate this authority with its existing certificate and exemption authority to the extent permitted by applicable bilateral air transport agreements.**

**XX** Allocation of 7 weekly U.S.-Japan combination frequencies

Applicant rep: **R. Bruce Keiner (202) 624-2615** DOT Analyst: **Sylvia Moore (202) 366-6519**

**DISPOSITION**

**XX** Granted (subject to conditions, see below)

The above action granting Continental Micronesia's exemption authority was effective when taken:

**August 12, 2004**, through **August 12, 2006**

The frequency allocation was granted: **August 12, 2004**, and will remain in effect indefinitely, provided that Continental Micronesia continues to hold the necessary underlying authority to serve the Honolulu-Nagoya market.

**Action taken by: Paul L. Gretch, Director  
Office of International Aviation**

**XX** The exemption authority granted is consistent with the 1989 aviation agreement between the United States and Japan.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

**XX** Holder's certificates of public convenience and necessity

**XX** Standard exemption conditions (attached)

**Conditions:** The route integration authority granted is subject to the condition that any service provided under this authority shall be consistent with the applicable bilateral aviation agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the authority requested should be construed as conferring upon Continental Micronesia additional rights (including code-share, fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Continental Micronesia first notifies the Department of its intent to serve such a market and unless and until

the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Continental Micronesia's authority by virtue of the route integration authority granted here, but that are not then being used by Continental Micronesia, the holding of such authority will not be considered as providing any preference for Continental in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Consistent with our standard practice, the frequency allocation granted is subject to the condition that if the seven frequencies are not used for a period of 90 days, the allocation of frequencies will expire automatically and the frequencies will revert to the Department for reallocation. The 90-day dormancy period will begin on December 20, 2004, the date Continental Micronesia proposes to inaugurate operations with these frequencies.

**Remarks:** We acted on this application without awaiting expiration of the 15-day answer period with the consent of all parties served.

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On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR § 385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

An electronic version of this order is available on the World Wide Web at:  
[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)

### **U.S. Carrier Exemption Conditions**

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.